

CHARLES ELLIS SHIRLEY §  
v. § CIVIL ACTION NO. 6:10cv364  
CAPTAIN M. STARKEY §

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ORDERED that the Plaintiff's objections are overruled and that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of mandamus be and hereby is DISMISSED as frivolous with prejudice as to its refiling in federal court, but without prejudice as to Shirley's right to seek mandamus relief in state court. It is further

ORDERED that because the nature of the underlying action in this case sounds in civil rights and not habeas corpus, the terms of the Prison Litigation Reform Act apply and the dismissal of this petition shall count as a strike for purposes of 28 U.S.C. §1915(g). Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

**So ORDERED and SIGNED this 20th day of September, 2010.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE**